

FISCAL NOTE

Bill #: SB0021

Title: Tax for water use through hydroelectric facilities

Primary

Sponsor: Senator Ken Toole

Status: As Introduced

| | | | |
|-------------------|------|---------------------------------|------|
| Sponsor signature | Date | Chuck Swysgood, Budget Director | Date |
|-------------------|------|---------------------------------|------|

Fiscal Summary

| | <u>FY 2003 Difference</u> | <u>FY 2004 Difference</u> | <u>FY 2005 Difference</u> |
|--|-------------------------------|-------------------------------|-------------------------------|
| Revenue: | | | |
| General Fund | \$7,045,799 | \$14,091,598 | \$14,091,598 |
| Net Impact on General Fund Balance: | \$7,045,799 | \$14,091,598 | \$14,091,598 |

| <u>Yes</u> | <u>No</u> | | <u>Yes</u> | <u>No</u> | |
|------------|-----------|----------------------------------|------------|-----------|-------------------------------|
| X | | Significant Local Gov. Impact | X | | Technical Concerns |
| | X | Included in the Executive Budget | X | | Significant Long-Term Impacts |
| | X | Dedicated Revenue Form Attached | X | | Family Impact Form Attached |

Fiscal Analysis

ASSUMPTIONS:

1. The impacts in this fiscal note assume that Initiative Measure 145 will not pass in the November 2002 general election.
2. Under this proposal, a new tax of \$0.0025 per kilowatt-hour (Kwh) is applied to electricity generated by the owner or operator of a hydroelectric facility with a nameplate capacity of 5 megawatts or greater.
3. Electricity produced from a hydroelectric facility owned by the state or by an agency of the United States government is exempt from the tax.
4. The tax is effective for tax years beginning after December 31, 2002.
5. Under this proposal, and based on assumption one above, the revenue from this new tax is deposited 100% in the state general fund.
6. This proposal will generate new revenue to the state general fund of \$7,045,799 in FY 2003; \$14,091,598 in FY 2004; and \$14,091,598 in FY 2005, as shown in Table 1.
7. The impacts in assumption four are calculated using a five-year average of electrical generation (taxable Kwh) as a tax base. This data was calculated using information provided by the U.S. Department of Energy. This tax base was then adjusted downwards by 5% as a precaution for the accuracy of the data. The estimated taxable Kwh in FY 2003 are much lower than in FYs 2004 and 2005 due to the tax only

(continued)

being in effect for a half of a year. Table 1 shows the estimated taxable Kwh, the tax rate, and the estimated revenues that will be generated from this new tax.

8. Under this proposal, the Department of Revenue would require administrative time for compliance and administration work in FY 2003. However, given the limited population of filers the costs would be minimal.

| Table 1 SB21 (2002 Special Session) As Introduced Revenue Calculations | | | | | |
|---|------------------------------|----------|-----------------|----------|---------------------------|
| <u>Fiscal Year</u> | <u>Estimated Taxable Kwh</u> | <u>X</u> | <u>Tax Rate</u> | <u>=</u> | <u>Estimated Revenues</u> |
| 2003 | 2,818,319,634 | X | \$0.0025 | = | \$ 7,045,799 |
| 2004 | 5,636,639,267 | X | \$0.0025 | = | \$ 14,091,598 |
| 2005 | 5,636,639,267 | X | \$0.0025 | = | \$ 14,091,598 |

FISCAL IMPACT:

| | <u>FY 2003</u> <u>Difference</u> | <u>FY 2004</u> <u>Difference</u> | <u>FY 2005</u> <u>Difference</u> |
|--|-------------------------------------|-------------------------------------|-------------------------------------|
| <u>Revenues:</u> | | | |
| General Fund (01) | \$7,045,799 | \$14,091,598 | \$14,091,598 |
| <u>Net Impact to Fund Balance (Revenue minus Expenditure):</u> | | | |
| General Fund (01) | \$7,045,799 | \$14,091,598 | \$14,091,598 |

LONG-RANGE IMPACTS:

Revenue to the state general fund will be greater than under current law.

TECHNICAL NOTES:

1. If Initiative Measure 145 does pass in the November 2002 general election, then the revenue distributions will be different in the forecasted period. From January 1, 2003, through December 31, 2004, 100% of the revenue would be distributed to the state general fund. From January 1, 2005, through December 31, 2005, revenue would be distributed 62% to the state general fund, 33% to a state special revenue account to the credit of the Montana Power Commission for conducting an assessment of hydroelectric facilities, and 5% to a state special revenue account to the credit of the Montana Power Commission for operating expenses. From January 1, 2006, and thereafter revenue would be distributed 95% to the state general fund and 5% to a state special revenue account to the credit of the Montana Power Commission for operating expenses. Additionally, if this measure is passed then the tax base and revenue may decrease if the state purchases hydroelectric facilities.
2. Section 4(1) would be clarified by adding "the tax must be remitted with a return, on a form provided by the department, and paid on or before the 30th day of the month after each calendar quarter."
3. Section 6 would be clarified if it had an order of payment subsection. For example, principal first, penalty second, and interest third.
4. Section 9 applies the statute of limitations for false or fraudulent returns, but not for complete failure to file a return.
5. In Section 10(1) following "return was due" it would be helpful if "or one year after date of overpayment" were added.